IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO: 2503 of 1994

Between:

1 M.Venkatesaiah S/o.M.Chinna Chengaiah
Nennuru Village Kannikapuram Post
Kondakinda Indlu, Kammapalli Mandal Chittoor District
2 Smt.M.Savithramma W/o. M.Venkatramayya
Nennuru Village Kannikapuram Harijanwada
Kondakinda Indlu, Kammapalli Mandal Chittoor District
3 M.Vijaya Kumar S/o. M.Venkatramayya
Nennuru Village Kannikapuram Harijanwada
Kondakinda Indlu, Kammapalli Mandal Chittoor District
4 M.Sankaraiah S/o.M.Chinna Chengaiah
Nennuru Village Kannikapuram Post
Kondakinda Indlu, Kammapalli Mandal Chittoor District
5 M.Mogelaiah S/o.M.Chinna Chengaiah
Nennuru Village Kannikapuram Post
Kondakinda Indlu, Kammapalli Mandal Chittoor District

..... PETITIONERS

AND

1 The Districtr Collector, Chittoor.
2 The Revenue Divisional Officer, Chittoor.
3 The Mandal Revenue Officer, Kammapalle Mandal,
Chittoor District.
4 Smt.Nellapalli Venkatamma, W/o.Chengaiah,
Nennuru Village, Kannikapuram Post,
Kondakinda Indlu, Kammapalle Mandal Chittoor District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more in the nature of writ of certiorari calling for the records pertaining to the proceedings Roc.NO.A1/2240/93, Dt.19/1/1994 issued by the 3rd respondent and quash the same as illegal, arbitrary unconstitutional and without jurisdiction and contrary to the provisions either under the Board standing orders or the Assignment Rules and is also violative of principles of natural justice by holding that the 4th respondent is not entitled for the assignment of Ac.4-09 cents in Survey No.59/12 through the proceedings Roc.No.A1/2240/93, Dt.19/1/1994 issued by the 3rd respondent as illegal, arbitrary, unjust and without jurisdiction and pass such other order.

Counsel for the Petitioners: MR.P.JAGADISH CHANDRA PRASAD

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

The petitioners in this writ petition, who claim to be the assignees of the land to an extent of Ac.5-69 cents in Sy.No. 59/7, Ac.2-50 cents in Sy.No.59/2, Ac.2-49 cents in Sy.No.59/3, Ac.2-46 cents in Sy.No.53/5 and Ac.2-39 cents in Sy.No.59/6 situated in Nennur

Village, Kampalle Mandal of Chittoor District, respectively, question the order dated 19.01.1994 passed by the third respondent -Mandal Revenue Officer, Kammapalle Village. The said order came to be passed by the Mandal Revenue Officer on the representations made by the fourth respondent.

It is the case of the petitioners that in the said order the petitioners were directed to provide a footpath at the width of 20 links in the lands assigned to them so as to enable all of them to reach the bore-well situated in Sy.No.59/15. Mainly, the writ petition is filed on the ground that the said impugned order is passed without any notice to them and by making an inspection and enquiry behind their back. It is further stated that the fourth respondent has made an application to the Mandal Revenue Officer stating that she is in possession of excess land to an extent of Ac.0-85 cents and the same merged with the lands already assigned to the petitioners. Pursuant to the said representation, it appears that enquiries are made, but at no point of time notices were given to any of the petitioners and ultimately, in the operative portion of the order, directions were issued to the petitioners to provide a footpath to a width of 20 links on the ground that there is a bore-well in Sy.No.59/15 which is being used for drinking water purposes and to have access to the said bore-well the petitioners have to leave an extent of land as referred above.

Though the writ petition is of the year 1994, no counter-affidavit is filed either by the official respondents 1 to 3 or by the 4th respondent.

From the very reading of the order, it appears that though the names of the petitioners are referred to in the impugned proceedings describing the extent of land assigned to them, but there is no indication of any enquiry being conducted by issuing notices to them. The petitioners are the affected parties pursuant to the impugned order because directions were issued to them to leave a certain extent of land, which is already assigned to them, and as such, no order could have been passed without issuing notices to them. The

said allegations of the petitioners are not contraverted by the respondents by filing any counter-affidavit and as there is no indication of any notice being issued to the petitioners before passing of the impugned order, I set aside the impugned order dated 19.01.1994 passed in proceedings ROC.No.A1/2240/93 on the mere ground that the said order is passed without issuing any notices to the petitioners which is nothing but violation of principles of natural justice.

However, I make it clear that if there is any bore-well situated in Sy.No.59/15 of Nennur Village, Kammapalle Mandal of Chittoor, and if there is no access for the public to reach the said bore-well, it is open for the respondents to issue notices to the petitioners and then pass appropriate orders.

The writ petition is allowed to the extent indicated above. No order as to costs.

_____ R.SUBHASH REDDY, J

17.01.2005

DR

That Rule nisi has been made absolute.

Witness Hon’ble Sri Devinder Gupta, the Chief Justice, on this the seventeenth day of January, Two thousand and five.

To

1 The District Collector, Chittoor
2 The Revenue Divisional Officer, Chittoor
3 The Mandal Revenue Officer, Kammapalle Mandal,
Chittoor District
4 2CCs to Government Pleader for Revenue, High Court Buildings, Hyderabad.
(OUT)

5 2CD copies